

Senate Bill No. 1492

Passed the Senate August 27, 2004

Secretary of the Senate

Passed the Assembly August 25, 2004

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to add Chapter 6.5 (commencing with Section 56.32) to Part 2.6 of Division 1 of the Civil Code, relating to confidential information.

LEGISLATIVE COUNSEL'S DIGEST

SB 1492, Dunn. Confidential information.

Existing law prohibits a health care provider, health care service plan, or contractor from disclosing medical information regarding any patient of the health care provider or enrollee or subscriber of the health care service plan without first obtaining an authorization, except as specified. Existing law makes a violation of this provision, and related provisions relating to the handling of confidential medical information, subject to administrative, civil, and criminal penalties.

This bill would prohibit a health care business, as defined, from transmitting individually identifiable health information, as defined, to a site outside the United States, unless specified notice and authorization requirements are satisfied. The bill would also require a person or entity that has contracted or subcontracted with a health care business to receive individually identifiable health information to disclose to the business if any of the information will be transferred outside the United States. The bill would further require specified persons and entities to make those disclosures to their patients, upon request. The bill would prohibit a health care business from discriminating against an individual or denying an individual health care service because the individual has not consented to the transfer of individually identifiable information outside the United States. This bill would create a state-mandated local program by imposing the above-described penalties on persons who violate this provision.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.



The people of the State of California do enact as follows:

SECTION 1. Chapter 6.5 (commencing with Section 56.32) is added to Part 2.6 of Division 1 of the Civil Code, to read:

CHAPTER 6.5. DISCLOSURE OF MEDICAL INFORMATION BY
HEALTH CARE BUSINESSES

56.32. (a) For purposes of this chapter, a “health care business” means any person or entity, whether established to make a profit or not, that collects or retains individually identifiable health information about individuals in relation to medical care, that is described below:

(1) A health care facility or health care plan licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code, other than an entity described in paragraph (2).

(2) An entity offering health insurance, as defined in subdivision (b) of Section 106 of the Insurance Code.

(b) For purposes of this chapter, “individually identifiable health information” has the same meaning as the term “medical information” in subdivision (g) of Section 56.05.

56.33. (a) A person or entity that has contracted or subcontracted with a health care business, physician and surgeon, or entity identified pursuant to subdivision (f) or (g) of Section 1375.4 of the Health and Safety Code, to receive individually identifiable health information shall disclose to the health care business if any of the information will be transferred to a site outside the United States.

(b) No health care business, or person or entity that has contracted or subcontracted with a health care business, shall transmit individually identifiable health information to a site outside the United States unless all of the following apply:

(1) The health care business discloses to the individual at the time of enrollment and reenrollment, or in the case of a health facility upon admission or as soon as practical after admission, that his or her individually identifiable health information may be transmitted to a site outside the United States.

(2) The health care business obtains a consent acknowledgment pursuant to Section 56.34 from the individual whose health information is identifiable that his or her individually identifiable

health information may be transmitted to a site outside the United States.

(3) The consent of the individual has been granted or renewed on at least an annual basis.

(4) The individual may revoke his or her consent in writing to the health care business at any time.

(5) The obligations imposed on a health care business by this section are undertaken by the business itself and are not delegated to a physician and surgeon employed by, or contracted with, the health care business.

56.33.5. A health care business, physician and surgeon, or entity identified pursuant to subdivision (f) or (g) of Section 1375.4 of the Health and Safety Code, shall disclose to the patient, upon the patient's request, if individually identifiable health information is transmitted to a site outside of the United States.

56.34. Except for a request for health care services initiated by an individual seeking diagnosis or treatment outside of the United States, a health care business shall utilize a form, statement, or writing to obtain consent to transmit individually identifiable health information to a site outside the United States. The form, statement, or writing shall meet the following criteria:

(a) It shall be a separate document, and it shall not be attached to any other document.

(b) It shall be dated and signed by the individual whose health care information is identifiable.

(c) It shall clearly and conspicuously disclose all of the following:

(1) By signing, the individual is consenting to the transmission of his or her individually identifiable health information to a site outside the United States.

(2) The consent of the individual must be renewed on at least an annual basis.

(3) The individual may revoke his or her consent at any time.

(4) The procedure by which consent may be revoked.

56.34.5. A health care business shall not discriminate against an individual or deny an individual health care service because the individual has not provided his or her consent pursuant to Sections 56.33 and 56.34.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because



the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2004

Governor

